

REMARKS

Claims 1-7 and 27-30 are currently pending. The withdrawn claims have been cancelled. Claims 1 and 4 have been amended. Support for the amendments to claims 1 and 4 may be found in the specification as originally filed, for example, original claim 4, page 59, lines 9-10 and page 76, Table 7.

I. The Rejections Based on Omori '247

Claims 1-7 and 27- 30 are rejected under 35 U.S.C. 102(b) as allegedly being anticipated by Omori '247 (N*).

The Examiner notes that Applicants argue that Omori '247 teaches a condensation step that is not present in Applicants' claimed invention and that if a synthetic absorbent process is conducted here, the composition of the composition matter that absorbs and the composition of the composition matter that pass through would differ because of the difference in the concentration of the liquid passing through.

The Examiner states that such an argument is not found persuasive. The Examiner notes that Applicants claims do not exclude a condensation step. The Examiner concludes that the present claims do not indicate a materially different product than that taught by Omori.

Claim 1 has been amended for clarity to recite that the liquid fraction as is obtained by said solid-liquid separation is subjected to a separation treatment by adsorption using a synthetic adsorbent and where the unadsorbed product of said separation treatment is the claimed composition. Further, while Applicants' claims contain product-by-process language, Applicants' claims 1-7 and 27-30 are not process claims. Rather, they are composition claims

and include recitations as to the amounts of the various components. For composition claims, an applicant needs to show that claimed composition is different than that of the cited reference. This is true whether the claims contain product by process language or not.

Applicants have previously presented a reason that the claimed compositions are different.

Filed concurrently herewith is a Declaration Under 37 C.F.R. §1.132. In the experiments shown in the 132 Declaration, a sample representative of Omori '247, which is an unadsorbed fraction comprising a bypassed solution showing an unadsorptive property, obtained by performing an adsorption separation process by passing the barley shochu stillage, after condensed to 1/3, through an aromatic synthetic adsorbent column (Composition C), was prepared and tested. Two compositions of an unadsorbed fraction comprising a bypassed solution showing an unadsorptive property obtained by performing an adsorption separation process by passing the barley shochu stillage, as is, through synthetic adsorbent columns AMBERLITE XAD-16 (an aromatic synthetic adsorbent) (Composition A) and AMBERLITE XAD-7 (a methacryl synthetic adsorbent) (Composition B) were prepared and tested. From the data of the 132 Declaration it is evident that the compositions obtained by the method included in the claims of the present application differ from the composition obtained by the method indicated in Omori '247, not only in its method of preparation but also in its ingredient composition. That is, the compositional product of Applicants' product-by-process claims are a materially different product. The Examiner has not provided any reason to subject the compositions of Omori '247 to the process steps as claimed to obtain the claimed product. The

Examiner has also not provided any reason to change the composition obtained by the method of Omori '247 to the claimed composition.

For the above reasons, it is respectfully submitted that the subject matter of claims 1-7 and 27- 30 is neither taught by nor made obvious from the disclosures of Omori '247 and it is requested that the rejection under 35 U.S.C. §102 be reconsidered and withdrawn.

II. Conclusion

In view of the above, Applicants respectfully submit that their claimed invention is allowable and ask that the rejection under 35 U.S.C. §102 be reconsidered and withdrawn. Applicants respectfully submit that this case is in condition for allowance and allowance is respectfully solicited.

If any points remain at issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local exchange number listed below.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,
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